



**ON THIN ICE:
MAINTAINING PROFESSIONAL BOUNDARIES**

A resource for teachers

Counselling & Member Services

ONTARIO ENGLISH
**Catholic
Teachers**
ASSOCIATION



**Avoid high-risk
behaviours.
Be informed!**

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INTRODUCTION

Teaching is a fulfilling occupation that has many rewards and challenges. Ontario's 178,000 teachers are nurturers, scholars and role models who must understand curriculum, politics and law. In schools today, teachers face more than educational challenges. For some, life as a teacher has exposed them to unexpected allegations of misconduct.

Each year, more teachers face investigations by the Children's Aid Society (CAS), the police, the Ontario College of Teachers (OCT) and applications from the Human Rights Tribunal of Ontario (HRTO), following allegations of abuse, professional misconduct and discrimination.

The On Thin Ice: Maintaining Professional Boundaries booklet, DVD and workshop are designed as resources to help you answer two important questions:

- How can you avoid a false allegation?
- What should you do if your conduct is under investigation?

On Thin Ice is an update of Be Wary, Be Wise, produced by the Ontario English Catholic Teachers' Association (OECTA), 2002.

Counselling and Member Services Department

OECTA's Counselling and Member Services Department assists teachers whose conduct is being investigated. The department publishes advice about a variety of problems teachers face in Casebook Diary, a regular column in the OECTA newsletter, *agenda*. Casebook Diary is also posted on the OECTA website, www.oecta.on.ca in the Members' section, under Contracts & Rights. The Counselling and Member Services Department has produced other booklets and pamphlets to help teachers with various aspects of their professional lives. You may obtain these resources from your OECTA unit president or download them from the website.

Professional Boundaries

A teacher is in a Position of Trust, regardless of the age of the student. This means that as a teacher, your actions will be measured against a higher standard than that of other individuals. In order to receive the respect you deserve, you must treat students with respect and care, and you must take great care to avoid any situation which might be deemed as crossing professional boundaries.

Legislative Changes

Unfortunately, a number of teachers have been convicted of inappropriate conduct with students. In response to these incidents, numerous legislative changes to the Education Act have been enacted:

1. The Safe Schools Act, Regulation 521/01 amended the Education Act to mandate criminal records checks on all publicly funded school board employees who come in contact with students on a regular basis.
2. The Student Protection Act amended the Education Act to provide for the automatic removal of teachers charged with sexual assault or any other charge which the employer deems to be posing a risk or injury to students.
3. The Keeping our Kids Safe at School Act (Bill 157) amended the Education Act to require all school board employees to report to the principal if they become aware that a student may have engaged in an activity for which the student must be considered for suspension or expulsion. It also requires principals to contact the parents of victims of such incidents.
4. The Quality in the Classroom Act amended the Education Act to provide for a standardized provincial teacher performance appraisal process.

In addition to the above, the following Acts or Policies have also affected teachers:

1. The Occupational Health and Safety Act was amended by Bill 168 which imposes new duties on employers to address violence and harassment in the workplace.
2. The Child and Family Services Act clarifies the duty and responsibility of professionals, including teachers, to report suspected cases of child abuse.
3. The Policy on Preventing Sexual and Gender-based Harassment from the Ontario Human Rights Commission asserts that educators have a responsibility to take immediate steps to intervene in situations where sexual harassment may be taking place. Educators who know of, or should have knowledge of, the sexual harassment and could take steps to prevent or stop it, may be liable in a human rights claim.
4. The Equity and Inclusive Education policy requires that school boards develop policies that ensure that fundamental human rights as described in the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms, with which school boards are already required to comply, are developed and implemented. These include reviewing resources, instruction, assessment and evaluation practices to identify and eliminate stereotypes, discriminatory biases and systemic barriers.

In order to help ensure that assessment and evaluation are valid and reliable and lead to improvement of student learning, teachers must use assessment and evaluation strategies outlined in the assessment and evaluation section of the curriculum policy documents. Assessment tasks should be designed to ensure consistency of standards, and any discriminatory biases in the way students' work is assessed and evaluated should be identified and addressed. No one tolerates teachers who abuse students, sexually, physically or psychologically. Such individuals harm innocent students and damage the professional reputation of teachers. OECTA is committed to eradicating abuse at all levels. OECTA is also committed to ensuring that its members receive a fair and just hearing and are considered innocent until proven guilty.

The number of students who allege they have been abused or assaulted by a teacher is increasing. These complaints may result because of a misunderstanding. If a student or parent does not understand a teacher's actions or intent, the consequences can be far-reaching. For example, a teacher was investigated for sexual assault after writing a thank-you note to a student who helped out after school. The student's mother read the note, misunderstood the context and called the CAS.

Another example is the case of a teacher who, while trying to stop a student from bullying, was hit by the student. The student was charged with assault, but the student's mother threatened to report the teacher if the teacher did not withdraw the complaint.

Increasingly, teachers report conflicts and misunderstandings and feel threatened by the possibility that students could make false allegations. While OECTA successfully defends teachers against the majority of allegations, the impact of an investigation can be devastating.

OECTA files reveal that:

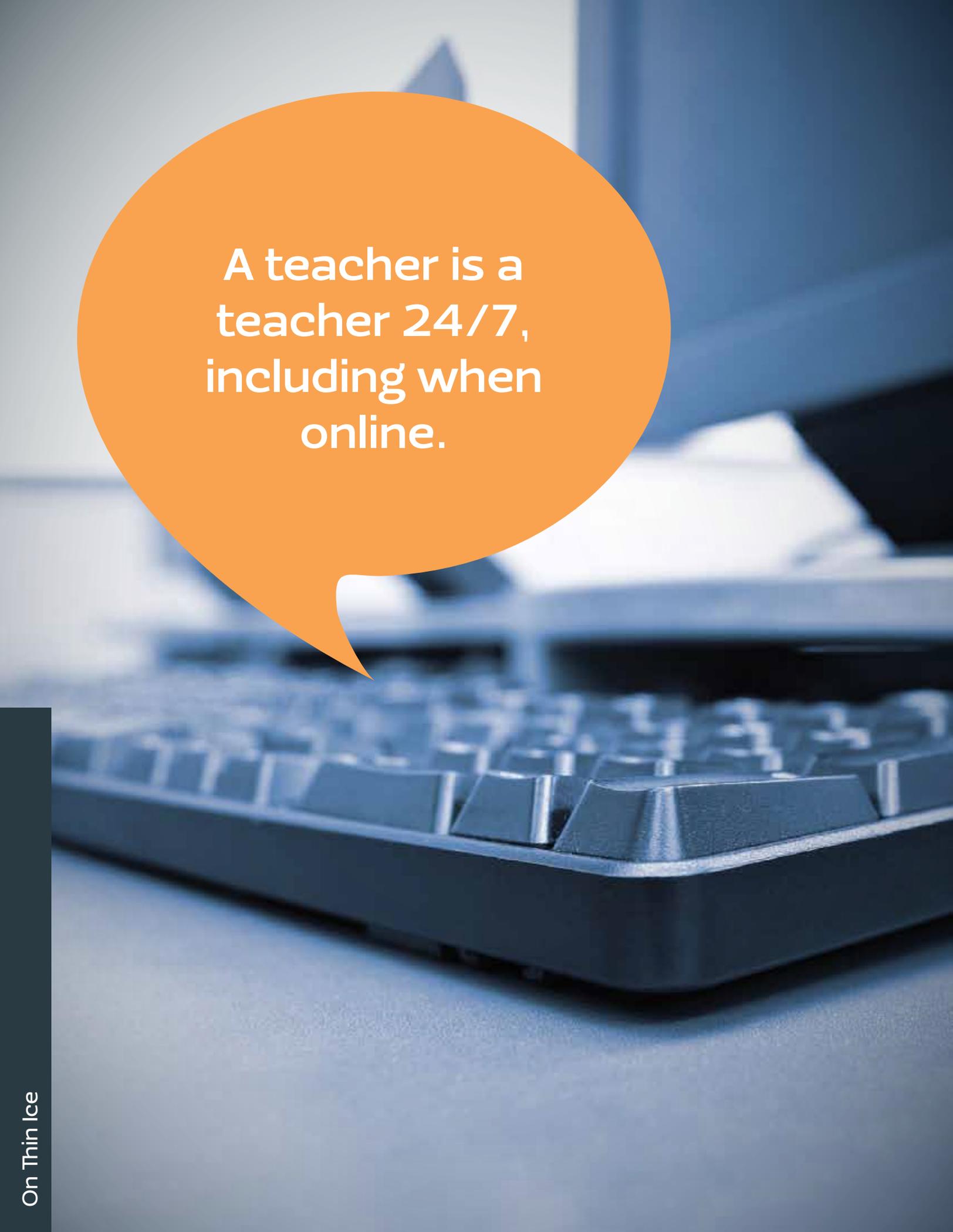
- The number of allegations against teachers has increased tenfold since the early 1990s. Allegations of emotional, physical or sexual abuse are more common. OECTA handles between 150 and 160 new cases a year.
- The majority of allegations are unfounded. OECTA records indicate that just one per cent to three per cent of allegations of physical assault/abuse result in criminal convictions; five per cent to 10 per cent of allegations of sexual assault/abuse lead to criminal convictions.
- Increasingly, students and parents regard any kind of physical contact, including a simple tap on the shoulder, as an assault.
- Similarly, allegations of sexual harassment and abuse are being made for looking at a student the wrong way.

Avoiding False Allegations

Most allegations arise from a misunderstanding or misinterpretation of the teacher's intent. Knowing and understanding the consequences of high-risk behaviour is the best prevention to becoming a target of a malicious allegation or fabrication.

Maintain Professional Boundaries

- Teachers hold a position of trust and are expected to maintain a higher standard of care and conduct than most members of the public. What may be acceptable for non-teachers may not be acceptable for teachers. This is true 12 months of the year, seven days of the week. A teacher is always a teacher. A teacher's after-school behaviour can also be scrutinized.
- Maintain professional boundaries and avoid relationships that become personal. Close relationships with students often lead to misunderstandings.
- A teacher's duty is to be a role model, not a best friend.
- Avoid meeting students outside of school.
- Avoid driving students in your personal vehicle. The responsibility for student transportation belongs to the school board.
- Avoid touching students.
- Avoid mixing socially with students, especially if alcohol is involved.
- Ensure there is adequate adult supervision of both genders on field trips or other activities outside of school.
- Never date students, even adult students.
- Don't play favourites. Many teachers know students who need extra care and attention. Be careful when dealing with these students. Show your concern and care in a steady professional manner that does not make exceptions.
- Be careful when giving students gifts. The best gift for a student is professional attention.
- Reflect on your actions. Avoid conduct you would be embarrassed to report. If in doubt, don't do it.
- Avoid keeping a student alone in the classroom for long periods of time after dismissal.
- Avoid situations where you are alone with a student.
- Avoid physical demonstrations of concern. Students are often needy. Show your concern by listening to them attentively.
- Do not close your classroom door if you are alone with a student. Do not cover the window of your classroom door. If your door has no window, leave it open.
- Avoid writing cards or letters to a particular student. Ask yourself how other people could misinterpret the comment. Once written, your comment cannot be deleted or retracted.
- Practise effective communication skills.



A teacher is a
teacher 24/7,
including when
online.

Using Social Media

There are countless examples of teachers who have been disciplined by the College of Teachers or disciplined and/or dismissed by their employer for inappropriate behaviour related to the Internet, ranging from comments about their employer to videos of themselves posted on YouTube. The moment you post personal information to the Internet, you have lost control over who will see it and how it will be used. Pictures can be easily copied, altered and displayed in a completely different context. If you do not want the information published on the front page of a newspaper, do not post it on the Internet.

The Ontario College of Teachers Professional Advisory on the Use of Electronic Communication and Social Media 2011 further advises:

- As a digital citizen, model the behaviour you expect to see online from your students.
- Alert students to appropriate online behaviour and the proper use of comments and images.
- Maintain your professional persona by communicating with students electronically at appropriate times of the day and through established education platforms (for example, a web page dedicated to a school program, project or class rather than a personal profile).
- Maintain a formal, courteous and professional tone in all communications with students to ensure that professional boundaries with students are maintained.
- Avoid exchanging private texts, phone numbers, personal e-mail addresses or photos of a personal nature with students.
- Decline student-initiated “friend” requests and do not issue “friend” requests to students.
- Notify parents/guardians before using social networks for classroom activities. Let them know about the platforms you use in your class to connect with students and consider giving them access to group pages.
- Operate in all circumstances online as a professional.

The Ontario College of Teachers Professional Advisory: Professional Misconduct Related to Sexual Abuse and Sexual Misconduct, September 27, 2002 also advises teachers to avoid:

- Exchanging personal notes, comments or e-mails with students.
- Making telephone calls of a personal nature to students.
- Engaging in sexualized dialogue through the Internet with students.

OECTA Cyber Safety Tips:

- Make sure your online accounts are secure.
- Use caution when joining and using networking websites.
- Consider the following when on a social media:
 - Would you drink, swear or use inappropriate humour in the classroom?
 - Who will see it and how does it reflect on you as a teacher?
 - What is the implication if the posting cannot be removed or can be accessed in the future?

OECTA advises that the following actions can also lead to discipline from your employer:

- Accessing inappropriate websites on a school board’s computer.
- Sending offensive jokes.
- Violating copyright by downloading audio, video or text-based materials.
- Using employer equipment for another occupation.
- Posting inappropriate pictures of yourself on the Internet.
- Posting criticism of administrators, colleagues, trustees, students or parents on social media sites.

Reflect on your practices and examine your teaching style. You must be careful and professional, but do not let undue fear undermine your effectiveness as a teacher.

Children's Aid Society

The investigation process

The Children's Aid Society (CAS) may be called in to investigate a complaint from any source: student, parent, colleague or school administrator. The CAS investigates all complaints, no matter how frivolous or vexatious. The CAS has the authority to question and investigate any allegation of abuse, in search of corroborative evidence. The investigation process will depend on the local CAS and any protocols that may exist between the Society, the school board and the police. At one time, the principal or other school board officials investigated a complaint of abuse before calling the CAS. This rarely happens today. School board officials will call the CAS with any complaint even if it appears to be unfounded.

What should you do if CAS investigates your conduct?

The CAS may inform the teacher of an investigation directly or through a school board official, usually the principal. An investigation by a CAS caseworker may be a very lengthy process, but most investigations take one to four weeks. If you are the subject of a CAS investigation, you should immediately seek advice from your unit president or contact OEFTA's Counselling and Member Services Department at 1-800-268-7230.

An OEFTA staff officer will assess the situation and provide you with direction and advice. If the allegations relate to your duties as a teacher, a lawyer may be assigned to help you through the investigation process.

In the event that you have not been advised by OEFTA or one of its lawyers, do not discuss the complaint with anyone, including the principal or vice-principal. They are management and operate according to a protocol that requires them to report what is said. There is no such thing as "off the record." Every comment you make can or will be used in the investigation. There are no "informal" CAS investigations. With the exception of legal counsel, there is no confidentiality. Therefore, any information that you share may be used during the course of the investigation or in a court of law.

If a CAS caseworker arrives at school to question you or if the principal asks to speak with you regarding a CAS investigation, OEFTA advises that you inform the person that you will be pleased to cooperate once you have had an opportunity to speak with legal counsel and that this is OEFTA's direction. OEFTA provides all members with a Legal Assistance for Members card with advice on how to respond if contacted by the police or CAS. Keep it with you at all times.

A teacher under investigation is usually removed from the classroom during the investigation and may be reassigned to home or to an alternate location, such as the school board office until the investigation is completed. In rare cases, another adult may be assigned to stay in the classroom with the teacher. If there are any changes to your work assignment, notify your unit president or OEFTA provincial staff member.

If the CAS insists on a meeting and you have not had an opportunity to call OEFTA provincial or to speak with OEFTA legal counsel, you are not obliged to attend the meeting or make any statement. If you are directed to attend any meeting by the principal or the supervisory officer, you are obliged to attend, but you are not obliged to make a statement or answer questions without the benefit of legal counsel. Before attending any meeting with the principal or supervisory officer, call your OEFTA unit president.

While OEFTA encourages every teacher to cooperate with CAS investigations, teachers are advised to exercise their rights. Always call OEFTA if you are the subject of an investigation.

Should the employer, the school board, investigate your conduct following the CAS investigation, request assistance from your OEFTA unit president to ensure that your employment rights are protected.

What to do if a colleague is investigated by the CAS

Teachers who are questioned as witnesses about a colleague's conduct by the CAS do not need legal counsel. If you have questions or concerns, you are advised to call your OECTA unit president or OECTA's Counselling and Member Services Department at the provincial office before responding to any questions. You are advised to answer questions truthfully. Do not offer an opinion or speculation. You should limit your remarks to the facts. Opinions offered can be taken out of context. If there is no factual information, OECTA advises you to resist the pressure to make a statement.

Under 18(1)(b) of the Teaching Profession Act, a teacher is required to provide a written statement of what has been reported about a member of the teaching profession if the comments constitute an adverse report. 18(1)(c) of the Teaching Profession Act sets forth the exceptions related to allegations of sexual abuse of a student.

Duty to Report

Under the Child and Family Services Act, a teacher or any individual working in an educational institution must report concerns directly to the CAS where there are "reasonable grounds to suspect a child has suffered abuse or is at risk of suffering abuse." The duty to report makes no exceptions. For a copy of the complete Act, go to http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c11_e.htm#BK113. Refer to OECTA's online publication *Teachers and Child/Family Services* for further information.

Beware!

The police may investigate simultaneously with the CAS or become involved based on the results of the CAS investigation. Nothing precludes a parent or a student from contacting the College of Teachers before, during or after a CAS investigation.

Police

The investigation process

The police may be called in to investigate a complaint of possible criminal activity from any source: student, parent, school administrator or the CAS. Allegations of abuse that are investigated simultaneously by the police and the CAS are known as Joint Abuse Investigations. Usually, a "complaint of abuse" as defined under the Child and Family Services Act is investigated by the police first if there is a suspicion of criminal abuse.

The police question many individuals before charges are laid. They often characterize this as an "informal" investigation and do not refer to an investigation as "formal" until charges are laid. However, all information gathered during either of these stages of an investigation is admissible in court.

What should you do if the police investigate your conduct?

The CAS and police investigation process is similar. You are advised not to make any admissions before you speak to an OECTA representative or legal counsel.

If you are the subject of a criminal investigation, contact OECTA provincial office immediately. If the allegations relate to your duties as a teacher, OECTA will immediately put you in touch with a lawyer who specializes in teachers and the law.

Do not speak to anyone else about the allegations. It is easy to incriminate yourself while trying to explain a seemingly innocent situation. The Crown attorney in a criminal trial can subpoena anyone he/she believes can act as a witness.

Sometimes the police state that they are "just asking some questions." This is when teachers mistakenly talk openly to the police thinking they can avoid a misunderstanding. Nothing is "off the record." Everything that you say can and will be used in the investigation and in the trial if charges are laid.



If you are contacted
say, "I am willing to
cooperate, but I am
unable to comment
until I contact my
Association."

Under Canada's Charter of Rights and Freedoms, the police are not obligated to caution you regarding your right to remain silent and your right to legal counsel until after you have been charged with a criminal offense.

However, you do have the right to remain silent and consult a lawyer before speaking with the police. If the police wish to question you before you have spoken with an OECTA representative or lawyer, politely inform them that you will be cooperative but wish to contact a lawyer through OECTA prior to answering any questions.

What rights do you have if you are arrested?

The police will lay criminal charges if they think that there is enough evidence to support a conviction at trial. In addition, the Crown attorney may proceed to trial if there appears to be enough evidence.

When arresting you, the police must identify themselves, tell you that you are under arrest, why you have been arrested, and make it clear that you are not free to leave.

The police can search you if you have been arrested, or if they believe you may be in possession of illegal alcohol, drugs or weapons.

Remember, you have the right to remain silent and consult a lawyer.

Can you be jailed?

Teachers arrested on serious charges may be detained. If you have been arrested and jailed, you must be brought before a judge or justice of the peace within 24 hours of the arrest, even on the weekend. OECTA advises that you not sign anything while in custody. A lawyer retained by OECTA will do everything possible to obtain your release. However, the legal system moves slowly.

Can you be charged and not detained?

In cases of less serious crimes, a teacher could be charged and not detained. There are different legal forms to instruct a teacher when and where to appear in court. If you do not appear at the designated place at the time specified, you could be charged with "failing to appear."

Understand your rights

Do not depend on the police to inform you of your rights. You have the right to a lawyer and must be given a reasonable opportunity to find one. The police cannot limit your phone calls if you are trying to find a lawyer.

If you are arrested, call your OECTA unit or the provincial office at 1-800-268-7230. If you are unable to contact an OECTA representative, obtain a lawyer of your own choice or a legal aid lawyer with police assistance. Call the OECTA provincial office as soon as possible, even if you have spoken to another lawyer, so that the appropriate lawyer retained by OECTA can be obtained and the Association's regular procedures implemented. OECTA works with experienced lawyers who specialize in teachers and criminal law.

Beware!

The police may investigate and determine that there was no criminal activity or they may determine there isn't enough evidence to support a conviction at trial. In this case, they keep your file open in the event that further information comes to light. They may also share information with the employing board, the Children's Aid Society or the College of Teachers.

Human Rights Tribunal (HRTO)

The HRTO process

A claim of discrimination or harassment can be brought to the HRTO by a student, parent, school administrator or colleague, by filing an application. The HRTO handles all new human rights application under the Human Rights Code (the Code) and is the decision-making body for all applications claiming a violation of human rights under the Code. The Code is law that protects people in Ontario from discrimination and harassment.

The HRTO has the power to hold hearings, make decisions and order remedies. It is a quasi-judicial adjudicative agency.

What should you do if there is an application made to the HRTO about your conduct?

The HRTO will send you, known as the respondent, a copy of the application as soon as it is accepted for processing, usually within a week. In most cases, Human Rights applications are made against a school board as well as the teacher. If this happens, the school board's legal counsel will usually represent you, as well as the Board, and will respond to the application. However, you should also contact OECTA, whose legal counsel will create a watching brief and will monitor the process to ensure that your rights are protected.

If the application names only you and relates to your duties as a teacher, OECTA will immediately put you in touch with a lawyer who specializes in human rights. With the assistance of OECTA legal counsel, a response to the application will be prepared.

Ontario College of Teachers

The Ontario College of Teachers was established in 1997. The College investigates complaints of misconduct or incompetence made against members. The Ontario College of Teachers Act, Regulation 437/97 – Professional Misconduct, defines acts which are deemed as professional misconduct by the College.

The following acts are defined as professional misconduct (Note: These are only few of the acts found in Regulation 437/97. For the complete list, visit www.oct.ca):

- Failing to maintain the standards of the profession.
- Abusing a student verbally.
- Abusing a student physically.
- Abusing a student psychologically or emotionally.
- Abusing a student sexually.
- Failing to supervise adequately a person who is under the professional supervision of the member.
- Failing to comply with the Act, the regulations or the bylaws.
- Failing to comply with the Education Act or the regulations made under that Act, if the member is subject to that Act.
- An act or omission that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
- Conduct unbecoming a member.
- Failing to comply with the member's duty under the Child and Family Services Act.

OECTA has noted an increase in College complaints in the area of failing to comply with the Education Act and other pieces of legislation requiring teachers to act accordingly.

- **Keeping our Kids Safe at School Act (Bill 157)** requires all board employees to report to the principal if they become aware that a student may have engaged in an activity for which the student must be considered for suspension or expulsion. Failure to respond or report may be deemed as professional misconduct by the College.
- **The Education Quality and Accountability Office (EQAO)** requires that teachers adhere to the rules outlined by EQAO. Failure to do so may have resulted in a number of complaints to the College by the EQAO, parents and school administrators.

Members are advised to be aware of all their duties and responsibilities under the Education Act, its regulations and its guidelines.

The investigation process

The Ontario College of Teachers (OCT) investigates when there is a written complaint about a teacher who is a member of the College. The Registrar of the College or any member of the public can initiate a complaint. An intake officer at the College discusses the complaint with the complainant. If this person proceeds to make a formal complaint, an investigator is assigned to the case. College staff cannot refuse to investigate a formal complaint.

In 2002, The Student Protection Act (Bill 101) amended various education laws that requires that the following issues be reported to the Ontario College of Teachers:

- (a) Teachers charged with certain convictions under the Criminal Code; – Education Act
- (b) Where the employer terminates the teacher or restricts his/her duties because of professional misconduct; – Ontario College of Teachers Act or
- (c) Where the teacher resigns while the employer was in the process of documenting him/her for the purpose of termination; – Ontario College of Teachers Act

The Ontario College of Teachers Act provides school boards with some discretion, however, many school boards tend to report a matter to the College of Teachers even though they have some discretion to do so.

These reports become the Registrar's complaint for purposes of the investigation.

The College investigator usually telephones to inform the teacher of the complaint. If this happens, contact OECTA immediately for assistance. Do not engage in conversation. The actual complaint is mailed to you. It will indicate the exact allegations and provide a brief explanation of the investigation process.

Once you receive the complaint in writing, contact OECTA and provide OECTA with a complete copy of the complaint package. With the assistance of OECTA legal counsel, a response to the allegations will be prepared and provided to the College. OECTA legal counsel will also inform the OCT that all future correspondence is to be directed to OECTA legal counsel.

The complainant is given an opportunity to amend the original complaint after receiving the teacher's response.

The investigator may interview you as a witness while investigating a colleague. If this happens, contact OECTA for assistance. Any information a witness provides may be used later if the matter proceeds. Responses should not be detailed. A denial is an acceptable response.

You should be aware that failure to respond within a reasonable time to a written inquiry from the College is a violation of the College's Professional Misconduct Regulation 437/97.

Once the investigation is complete, the investigator forwards a report to the Investigation Committee. The report includes all responses and notes, but it does not make a recommendation.

The Investigation Committee receives the report and can:

- Dismiss the complaint if it does not fall within the mandate of the OCT or if the complaint is frivolous, vexatious or an abuse of process.
- Refer the matter back to the investigator for further information.
- Caution or admonish the teacher if they believe the complaint was substantiated but is a minor offence and does not warrant discipline.
- Refer the matter to the Discipline Committee for a hearing, if the information suggests serious professional misconduct or incompetence.
- Refer the matter to the Fitness to Practise Committee for a hearing, if the Investigation Committee has concerns that there may be a health-related issue affecting the member's ability to teach or incapacity.

It should be noted that the facts are not judged for evidence or guilt. The Investigation Committee asks itself, “If this were proven to be true, would it amount to professional misconduct, incompetence or incapacity?” If the answer is yes, the complaint is referred to the appropriate committee.

Alternative Dispute Resolution

The OCT may decide that the complaint is appropriate in your situation for Alternative Dispute Resolution or mediation. This is a voluntary process that may occur before or during the investigation process. Although it is a confidential process, the Investigation Committee must ratify any settlement reached during mediation. There are many benefits to this problem-solving exercise. The OECTA staff officer and legal counsel can help you determine whether this process is appropriate.

The Discipline Committee

Serious complaints are referred to the Discipline Committee, which holds a quasi-judicial discipline hearing. Three members of the Discipline Committee make up a panel that hears the case and makes a determination. Lawyers represent both the College and the teacher. For the first time in the process, there is full disclosure of evidence. Witnesses may be called, and lawyers have opportunities to cross-examine them. The hearings are open to the public and are posted on the College website approximately two weeks prior to the hearing.

Following a hearing, the panel makes a determination. If there is a finding of professional misconduct or incompetence, the College may impose one or more of the following:

- An order to revoke or suspend to a maximum of 24 months a teacher’s certificate;
- Terms or conditions on a member’s certificate that may include taking certain courses or receiving counselling;
- A reprimand, admonishment or counselling;
- A fine up to \$5,000; and/or
- Costs of the case.

The panel determines whether the findings and order of the Committee will be published in detail or in summary. Your name may appear in the “blue pages” in *Professionally Speaking*, the College’s official publication. The decision is registered on your certificate as a notation.

Fitness to Practise

If the Investigation Committee has concerns that there may be a health-related issue affecting your ability to teach, the matter may be referred to the Fitness to Practise Committee for a hearing. These hearings are closed to the public. The Fitness to Practise Committee may (a) find a member to be incapacitated due to a physical or mental condition such that the member is unable to carry out his or her professional responsibilities or (b) find that a certificate held by a member should be made subject to terms, conditions or limitations.

Where the Fitness to Practise Committee finds a member to be incapacitated, it may make an order:

- To revoke or suspend to a maximum of 24 months a teacher’s certificate;
- Impose specified terms, conditions or limitations on a teacher’s certificate.

In most Fitness to Practise cases, the tendency of the Committee is to focus on rehabilitation or supervision. The Fitness to Practise Committee hearings are held in-camera and there is no publication of the finding.

What should you do if the College investigates your conduct?

If the College investigates your conduct, contact your OECTA unit president or call the Counselling and Member Services Department at the provincial office. An OECTA staff officer will ask you to send the written complaint you received from the College to the office. If the allegations relate to your duties as a teacher, legal assistance will be provided.

The College has authority to suspend or revoke a teaching certificate. You should take all complaints seriously.

What to do if a colleague is investigated by the College?

Under the Ontario College of Teachers Act, Professional Regulation 437/97 #22, you must cooperate in a College investigation. If you are approached by a College investigator, you must answer the questions truthfully. Do not offer conjecture or opinion.

Teachers are required under 18(1)(b) of the Teaching Profession Act to provide a colleague with a written statement of what was reported if the comments constitute an adverse report. 18(1)(c) of the Teaching Profession Act sets forth the exceptions related to allegations of sexual abuse of a student.

Beware!

Penalties imposed by the College for minor offences vary. Penalties for more serious offences are more consistent. The College's Discipline Committee imposes harsh penalties for offences relating to anything remotely connected to boundary violations, such as meeting with students after school, letter writing, e-mail messages, texting or postings made on social media websites.

Between 1997 and 2009, 173 teachers had their certificates revoked.

Reporters monitor College discipline proceedings. These hearing dates and allegations are published on the College website a few weeks before the hearing date.

The College has taken the position that "grooming" is not tolerated. Grooming is a term used to describe any type of non-sexual activity or behaviour between a teacher and a student where the teacher is allegedly "grooming" the student for a future relationship. OECTA cautions that many innocent activities could fall within this very broad definition.

THE IMPACT OF AN INVESTIGATION

The impact of an allegation on an innocent teacher can be enormous. The teacher is usually sent home during the investigation, which can take anywhere from one day to several months (or years if the allegation goes to a hearing). If there are charges, the teacher's name may be published. During this time, the teacher is often stigmatized and isolated by family, friends, neighbours and colleagues.

The stress of a false allegation can be overwhelming for many teachers. They report that they feel their reputations have been permanently tarnished, even after they have been completely exonerated by a thorough investigation.

Helping a colleague

Do not judge. Although many people falsely believe that the accused must be guilty if the police have laid charges, evidence shows this is not always the case. Many of the allegations are unfounded. Every individual is innocent until proven guilty.

Continue regular social activities with the teacher under investigation. The teacher needs to know that he or she has your support. Sitting at home waiting for a meeting with the CAS, police or a hearing date is a lonely and terrifying experience.

Remember, anyone can be a victim of false allegations.

OECTA CAN HELP

According to the OECTA Bylaws – Legal Assistance to Members

2.119 Where it is alleged that a member is guilty of unprofessional conduct or where a member is in a difficulty arising out of the performance of duties as a teacher, the Association shall investigate the matter and shall provide the member with legal advice where appropriate.

2.120 Legal counsel may be provided when the provincial executive deems it appropriate.

It is very important for you to seek direction from OECTA as soon as you are aware of any investigation or allegation of misconduct. Many problems can be avoided with early and appropriate legal intervention. There is often no way to predict how an investigation will conclude. Every situation must be taken seriously. This is your career and livelihood; therefore you must be aware of the potential consequences of your actions.

In addition to providing legal advice and counsel, OECTA also offers conflict management services and career counselling.

Most school boards have an Employee Assistance Program (EAP) available free to teachers. EAPs offer a range of services including counselling and stress management. If you are the subject of an investigation, this service is a great help. The trauma a teacher experiences is real and can have serious consequences on the personal and professional life of a teacher.

While OECTA lawyers may address the myriad of legal issues related to an investigation, teachers should not ignore their emotional needs. Staff in the Counselling and Member Services Department or the OECTA unit president can help during this difficult time. You are encouraged to consult OECTA's resources at www.oecta.on.ca. Your OECTA unit and the provincial office are here to help.

Remember, you are not alone.

Resources

Ontario. Ministry of Education. The Education Act and Regulations 1990. (Online). Available: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90e02_e.htm (via WWW) [October 1, 2011].

Ontario. Ministry of Education. The Ontario College of Teachers Act 1996. (Online). Available: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_96o12_e.htm (via WWW) [October 1, 2011].

Ontario. Ministry of Education. Ontario College of Teachers Act, 1996 , Ontario Regulation 437/97; Professional Misconduct. (Online). Available: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_970437_e.htm (via WWW) [October 1, 2011].

Ontario College of Teachers Professional Advisory: Professional Misconduct Related to Sexual Abuse and Sexual Misconduct, September 27, 2002. (Online). Available: http://www.oct.ca/publications/pdf/advisory100802_e.pdf (via WWW) [October 1, 2011].

Ontario College of Teachers Professional Advisory: The Use of Electronic Communication and Social Media, February 23, 2011. (Online). Available: http://www.oct.ca/publications/PDF/Prof_Adv_Soc_Media_EN.pdf (via WWW) [October 1, 2011].

"The Human Rights Tribunal of Ontario | ." The Human Rights Tribunal of Ontario . N.p., n.d. Web. 5 Oct. 2011. <<http://www.hrto.ca/hrto/>>.

"The Human Rights Tribunal of Ontario | ." The Policy on Preventing Sexual and Gender-based Harassment, January 27, 2011. N.p., n.d. Web. 5 Oct. 2011. <<http://www.ohrc.on.ca/en/resources/Policies/PolicySexHarrCommentsENG/pdf>>

"Legislative Assembly of Ontario |Bills & Lawmaking |Current Parliament |Bill 168, Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2009." Welcome to the Legislative Assembly of Ontario. N.p., n.d. Web. 5 Oct. 2011. <http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2181>.

"Legislative Assembly of Ontario |Bills & Lawmaking |Current Parliament |Bill 157, Education Amendment Act (Keeping Our Kids Safe at School) 2009." Welcome to the Legislative Assembly of Ontario. N.p., n.d. Web. 5 Oct. 2011. <<http://www.hpedsb.on.ca/ec/services/eds/documents/Bill157KeepingOurKidsSafeatSchoolAct.pdf>>.

Be Wary Be Wise. Dir. Focus Production. Perf. Teachers. OECTA, 2002. DVD.

OECTA. Pamphlet. Electronic Communications Appropriate and Professional, 2009.

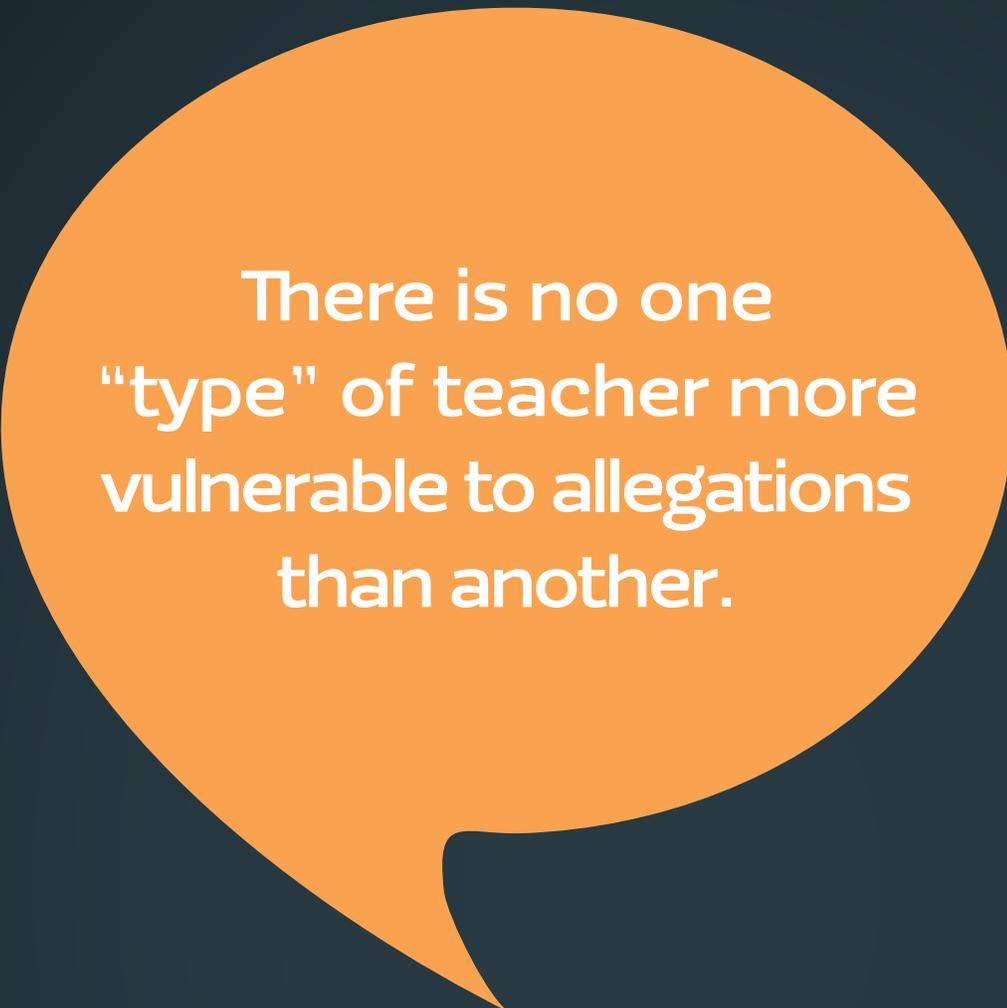
OECTA. Pamphlet. Reporting Abuse: Teachers and the Child and Family Services Act.

OECTA. Pamphlet. Relationships: Appropriate and Professional.

Canadian Teachers' Federation. Pamphlet. Cybertips for Teachers.



A large number of
allegations are found
to be without merit.



There is no one
“type” of teacher more
vulnerable to allegations
than another.

To learn more, visit www.oecta.on.ca
or call Counselling and Member Services
at OECTA's Provincial Office.

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